

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:20-CV-00541-FDW-DCK**

GILBERT H. AMIS III,

Plaintiff,

v.

CHAD F. WOLF,

Defendant.

ORDER

THIS MATTER is before the Court on Defendant's Motion to Stay. (Doc. No. 10). The Motion has been briefed by the parties and is now ripe for review. For the reasons stated herein, Defendant's Motion to Stay (Doc. No. 10) is GRANTED. This case is hereby STAYED pending this Court's resolution of the pending Motion to Dismiss.

Defendant seeks a Motion to Stay this matter until the Court resolves the pending Motion to Dismiss. (Doc. No. 10, p. 2). Defendant argues this matter should be stayed because Plaintiff's claims are "frivolous" and "rewarding such lawsuits with the leverage that comes from discovery pressures would encourage such non-meritorious lawsuits," particularly when the defendant is the federal government. Id. In opposition, Plaintiff urges this Court to deny Defendant's Motion and relies on Long v. Robinson, 432 F.2d 977 (4th Cir. 1970) in support of his argument. (Doc. No. 13, p. 13). Plaintiff's argument is misplaced; Long set forth the burden of party seeking a stay of a court order pending appeal. Long, 432 F.2d at 979. That is not the case here. Defendant simply seeks a stay of discovery until this Court resolves the pending Motion to Dismiss.

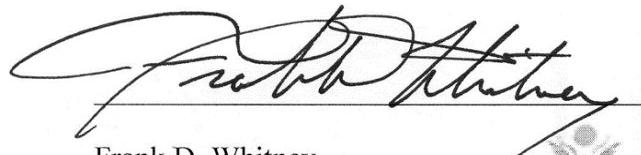
Paragraph 3(C)(ii) of this Court's Standing Initial Scheduling Order provides that motions to dismiss filed pursuant to Fed. R. Civ. P. 12(b)(6) will not "presumptively toll the time required

to plead an answer.” The Court, therefore, is permitted to exercise its discretion in tolling the time required to plead an answer upon the filing of a motion to dismiss for failure to state a claim. In the exercise of its discretion, the Court finds it appropriate to toll the time required for Defendant to plead an answer until ten (10) days after the disposition of the currently pending Motion to Dismiss.

The Court accordingly GRANTS Defendant’s Motion to Stay (Doc. No. 10) and STAYS this matter until the pending motion to dismiss is resolved. Once the Court issues an Order on the Motion to Dismiss, Defendant shall have ten (10) days to file an appropriate responsive pleading.

IT IS SO ORDERED.

Signed: January 20, 2021



Frank D. Whitney
United States District Judge

